

MINUTES
SCOTTSDALE CITY COUNCIL
SPECIAL MEETING
Monday, October 13, 2003

**The Kiva
City Hall
Scottsdale, Arizona**

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CALL TO ORDER

Mayor Manross called to order a Special Meeting of the Scottsdale City Council on Monday, October 13, 2003 in the Kiva, City Hall, at 5:08 P.M.

Present: Mayor Mary Manross
Vice Mayor Wayne Ecton
Council Members David Ortega, Tom Silverman, Robert Littlefield, Ned O'Hearn, and Cynthia Lukas

Also Present: City Manager Jan Dolan
City Attorney Brad Woodford
City Clerk Carolyn Jagger

Pledge of Allegiance

Boy Scout Troop #147 led the audience in the Pledge of Allegiance.

Public Comment

Laurie Woodall, 3029 N. 85th Street, spoke in opposition to the land exchange proposed as part of the Water Quality Improvement Plan. She noted that the proposal would eliminate 1.3 acres of the Pima Park along Thomas Road. She requested that the city solicit neighborhood opinion, study the impact on park activities, parking, etc., and forward the information to the Parks Commission for review. If the land swap is pursued, she requested that the city negotiate with the owner for permanent mitigation measures. She cautioned that the Arizona Constitution prohibits gifts of public property to private citizens and urged the city to address this issue in the appraisal analysis.

Nick Luongo, 9542 E. Rockwood Drive, expressed his opinion that the Scottsdale Airpark is an asset and a good neighbor while the Scottsdale Airport is not. He urged the Council to place the question of closing the airport on the ballot for voters to decide.

CONSENT AGENDA ITEM 1

- 1. Consider adopting Resolution No. 6389 calling the 2004 Municipal Elections and a Special Election to run concurrently with the March 9, 2004 General Election.**
Request: Adopt Resolution No. 6389 calling a General Election for Tuesday, March 9, 2004 and a runoff election, if necessary, for Tuesday, May 18, 2004 for the purpose of electing a mayor and three council members; and a Special Election to run concurrently with the General Election for the purpose of submitting to the qualified electors of the city a proposed amendment to the Scottsdale City Charter to create a six (6) district form of government with the Mayor being elected at large.
Related Policies, References:

- The Scottsdale City Charter establishes the time of holding general elections and runoff elections, if necessary, in even numbered years on the first calendar dates authorized by state law establishing mandatory election dates. The office of mayor and three council member seats are to be filled at the 2004 municipal elections. The Charter also contains provisions for holding special elections.
- Maricopa County Elections Department is statutorily required to provide voter registration and other election services and is well qualified to assist cities and towns with election operations and procedures.

Staff Contact(s): Carolyn Jagger, City Clerk, 480-312-2411, cjagger@ScottsdaleAZ.gov

COUNCILMAN ORTEGA MOVED TO ADOPT RESOLUTION NO. 6389 CALLING THE 2004 MUNICIPAL ELECTIONS AND A SPECIAL ELECTION TO RUN CONCURRENTLY WITH THE MARCH 9, 2004 GENERAL ELECTION. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

REGULAR AGENDA

2. Alternatives for management of the downtown Enhanced Municipal Services District (EMSD)

Request: Direct staff to proceed with one of the alternatives presented to manage EMSD funding. The Council may also want to direct that issues relating to the downtown be included in an oversight committee or commission.

Related Policies, References: Council Resolution No. 6298 on June 3, 2003 relating to the annual review and update of Downtown Enhanced Municipal Services District No. 2.

Staff Contact(s): Lisa Collins, Customer Service and Communication Director, 480-312-7616, lcollins@scottsdaleaz.gov; Ed Gawf, Deputy City Manager, 480-312-4510, egawf@ScottsdaleAZ.gov

Ed Gawf, Deputy City Manager, presented the following information.

Enhanced Municipal Services District (EMSD) Management Alternatives

Request

Direct staff to proceed with one of the alternatives presented to manage the EMSD funding

- Restructured DSP (Downtown Scottsdale Partnership)
- Downtown Commission or Association

Background

- Purpose of the EMSD (Enhanced Municipal Service District)
 - Authorized by state law to provide service within the district at a higher level
- Areas covered by the EMSD (includes 225 acres of the downtown)
 - Specialty Districts: Old Town; 5th Ave.; West Main; Marshall Way
- Initial 5-year period - 1997
- Second 5-year period – 2002
- Annual Review - 2003
- Contracts & Budget:
 - DSP - \$48,500 (6 months) for administration
 - Cramer-Krasselt (C-K) \$500,000 (12 months) for marketing

Key Issues

- Scope:
 - Management within EMSD only or issues impacting the broader downtown
- Decision Making Body:
 - Size of the decision making body; formation by appointment or elections; term limits
- City Funding:
 - City contribution of funds to a private non-profit corporation [currently DSP] or City-appointed commission
- Staffing:
 - Staffing responsibilities for a restructured DSP or a City-appointed commission
- Transition Plan:
 - Transition plan needed for a City-appointed commission
 - Restructured DSP Contract
 - Downtown Commission / Association Ordinance

Downtown Commission or Association

- Manage & make decisions within EMSD
- EMSD property & business owners (or designee) form a 7 member decision making body appointed by Council: 5 members geographically based and 2 members based on land use
- Two, three-year term limits
- City contribution for management activities (reassigning staff)
- Staffing reassignments along with the Downtown Director (currently being recruited)
- Transition plan to establish a new commission or association to begin formal meetings in January 2004 (The ordinance would be presented to Council no later than November 17.)
- Commission requires residency; Association allows all property & business owners in decision making body
- Other tasks for a possible commission:
 - Create & maintain a downtown Scottsdale Plan
 - Provide Advice to Council on policy matters: parking, land use, ordinances, etc.

Restructured DSP

- Manage services & marketing contract within the EMSD
- EMSD property & business owners (or designee) elect and use the executive committee (7 to 9 members) as the decision making body within the EMSD
- Two consecutive term limits
- City could continue to allocate \$100,000 for administration or allow DSP to use money raised by EMSD for both marketing and administration

Resource Impacts

- Available funding:
 - \$100,000 City contribution annually
 - \$527,000 Assessments from the EMSD (\$97,000 to administration, \$500,000 contract with CK for marketing, \$15,000 used for administration of both contracts)
- Staffing:
 - Restructured DSP requires no changes to staffing
 - Downtown Commission or Association requires reassignment of existing staffing and adding new staff

Requested Action

- Direct staff to proceed with one of the alternatives presented to manage the EMSD

Downtown Commission or Association

-OR-

Restructured DSP

- Direct staff to return with appropriate ordinance and contract changes

Councilman Ortega quoted Article 5 Section 1 of the City's Charter stating that all members of appointed boards or commissions shall be residents of Scottsdale. Attorney Woodford read the portion of the charter into the record.

In response to additional questions from Councilman Ortega, Attorney Woodford explained that non-profit corporations have been formed in other cities that allows Council to have input on the membership of the Board of Directors. If Council chose to create such an association, the city could enter into a contract with a newly formed non-profit corporation which would vary slightly from the DSP contract. Attorney Woodford estimated that the ordinance and creation of a non-profit corporation would take up to six months.

Mr. Gawf explained that the intent of providing the option to create a commission or association was to provide a way for the city to allow property owners in the downtown who live outside the city an opportunity to be on the board.

Mayor Manross opened public testimony.

Barbara Espinosa, 8626 E. Vista, spoke as the chairman of Save Old Scottsdale in support of creating a commission based upon the City Charter.

Michael Fernandez, 4338 N. Scottsdale Road, submitted signatures of merchants in support of the proposed change from DSP to a downtown commission. He requested that the city look into the legality of the DSP's failure to file annual reports to the Corporation Commission in 2001 and 2002 in a timely manner.

Kenneth Carter, 7085 E. 5th Avenue, spoke on behalf of the Fifth Avenue Area Merchants Association. He stated his belief that the money from the assessment should be managed by the merchants not by Council or a commission.

Scott Larsen, (no address given), spoke as a representative of the Downtown Scottsdale Partnership. He stated his support of extending the DSP management contract.

Jamie White, 6245 E. McDonald Drive, explained that she is on the Board of Directors of the Downtown Scottsdale Partnership. She noted that her family has owned commercial property in downtown Scottsdale for over 60 years. She stressed that if Council chooses to create a commission, her family would be excluded from participating. She requested that Council allow the DSP to continue to evolve for the next six months.

Lois Fitch, 1229 N. Granite Reef Road, emphasized her participation in the community. She requested that Council give serious consideration to including citizens and their input in whatever decision they make.

Anselm Bischoff, 7247 Main Street, explained that he has been a business owner in downtown Scottsdale for thirty years. He stated his opinion that the assessment has been a failure since its inception. He suggested that the money from the assessment be given to charity.

Sam West, 8160 N. Hayden, J-210, explained that the DSP was given time six months ago to develop a plan without success. He stated his belief that the public needs the ability to participate in the commission.

Dee Logan, 7147 W. Minnezont, Phoenix, spoke on behalf of the Downtown Scottsdale Farmers Market, which is entering its third year. She stated her support of creating a commission since citizens want to be involved.

Carroll Huntress, 4005 N. Scottsdale Road, explained that the DSP has an elected board representing the best effort of the downtown community. He stated his opinion that a city run commission would cost the city more money and would be shortsighted.

Anne Gale, 4015 N. Marshall Way, explained that in 1997, property owners voted to tax themselves to fund advertising that would benefit all businesses in Scottsdale. She cautioned that if Council eliminates the DSP without the approval of the majority of the taxpayers, property owners would not renew the tax at the next anniversary.

Kathy Duley, 7100 E. Main Street, spoke as the current chairman of the Marketing Committee for the DSP. She emphasized that the DSP worked exhaustively with CK to develop a marketing campaign.

She urged Council to carefully consider how the marketing program would move forward without the DSP.

Janet Harris, 6939 5th Avenue, spoke in opposition to disposing of the DSP since she felt that the formation of an association would have political overtones.

Marilynn Atkinson, 3957 N. Brown Avenue, submitted 42 signatures from the Old Town area of the city in support of the city forming a committee to replace the DSP.

Virginia Korte, 7434 Scottsdale Mall, spoke as president of the Scottsdale Area Chamber of Commerce. She requested Council renew the DSP contract through the height of the tourism season and postpone its decision for six months. The additional time would provide the Chamber an opportunity to develop a viable alternative, which would be presented to Council.

Dwayne Richard, 7044 E. 5th Avenue, spoke in support of the DSP. He emphasized the positive changes that have been adopted by the DSP in response to Council's concerns.

Mayor Manross closed public testimony. Nine comment cards were received from citizens in support of retaining the DSP who did not wish to speak, while three cards were received from citizens in favor of discontinuing the DSP's contract.

Councilman Littlefield explained his belief that the real problem with the current system is that it doesn't work and hasn't produced any results. He quoted sales tax revenue statistics for the downtown over the past ten years indicating that the sales tax revenues have been "flat".

COUNCILMAN LITTLEFIELD MOVED TO DIRECT STAFF TO COME BACK WITH AN ORDINANCE TO CREATE A DOWNTOWN COMMISSION. COUNCILMAN SILVERMAN SECONDED THE MOTION (WHICH CARRIED 4/3 – M.M., C.L., D.O.).

Councilman Silverman addressed some of the concerns of citizens. He explained that if the EMSD doesn't pay for itself over the next four years, the assessment should be eliminated. He emphasized that nothing would change in the EMSD except for the management if a commission were created. He outlined the guidelines for the commission including: 1) term limits of three years, 2) the inclusion of property owners and merchants, 3) subcommittees to support the commission, and 4) properly noticed meetings.

Mayor Manross explained that she would not be supporting the motion. She stated her preference to restructure the DSP to support the businesses that are assessing themselves. She emphasized that there would always be differences of opinion; although she felt the differences could be overcome. She noted her belief that the DSP has taken significant positive steps to improve the process. She emphasized that timing is important to help ensure a successful tourist season. She expressed her belief that the creation of a commission would increase the cost of management, require additional staffing, and inject a political aspect into the process.

Councilwoman Lukas emphasized that she is very supportive of change; however, would not support the motion due to the extent of the proposed change. She noted that her concerns with the DSP size and term limits have been positively addressed. She stated her preference to have an entity other than the city control the EMSD, since the creation of a commission has the potential of bringing an end to the EMSD and adds a political element. She stressed that the EMSD is worthwhile because it allows the businesses

downtown to pool their resources to accomplish things that wouldn't have been possible individually. She stated her belief that the owners and businesses in the area should oversee the marketing.

Councilman Ortega expressed opposition to creating a commission to replace the DSP. He clarified that the proposed commission would eliminate the participation of 70% of the people who run the EMSD. He expressed his opinion that the city should not be stepping in and taking over the funds from the assessment.

Councilman O'Hearn addressed Ms. Korte's request to provide the Chamber an opportunity to work together over the next six months to come up with a workable solution that represents the interest of the merchants. He noted that Council did exactly that last June when they voted to wait six months to give everyone an opportunity to work together and come forward with one idea. He stated his belief that the structure of the DSP is flawed, although ample time was allowed for the DSP to reorganize. He expressed his belief that the Council must step in because of the division in the downtown.

Vice Mayor Ecton explained that the evaluation of the DSP has been ongoing for the past year and a half, although the DSP directors have not been willing to address Council's concerns until the last few days. He emphasized his belief that there needs to be improvement in the direction and management of the EMSD. He stated that the EMSD is an extremely valuable tool to market the downtown; however, the process must be fair and open.

Councilman Silverman questioned if the creation of a commission would require additional city staff. Mr. Gawf explained that he would anticipate that job duties of current staff would shift. In addition to a Downtown Director, an additional staff person would be necessary. He noted that the city's annual contribution would be spent for administration. Ms. Dolan clarified that the money the city would spend would be a portion of the approximately \$100,000 per year the city currently contributes to the EMSD.

Mayor Manross questioned if Council would consider modifying the motion to create an association instead of a commission. She felt that an association would allow business owners in the downtown who do not reside in Scottsdale to participate on the board. Councilman O'Hearn explained that he is convinced that an association wouldn't be a good idea. Councilman Littlefield stated that he is comfortable with his motion as it was stated.

Councilman Ortega stated his belief that the DSP is basically an association. He questioned the estimated six-month timeframe that would be needed to redefine an association that may or may not be valid.

COUNCILMAN ORTEGA MOVED TO CONTINUE THIS ITEM. MAYOR MANROSS SECONDED THE MOTION. (THE MOTION WAS RESTATED LATER IN THE MEETING.)

In response to questions from Councilman O'Hearn, Mr. Gawf clarified his recommendation in the event Council desires to create a commission. He noted that the commission would commence its work after the first of the year, concentrating on the budget and work program for the next fiscal year. In order to do that, he would ask Council to extend the DSP contract through the end of this fiscal year.

Councilman Littlefield clarified that his motion was to direct staff to come back with an ordinance to create a downtown commission as soon as possible. He added that the ordinance should include any details that need to be considered.

Councilman Ortega clarified his motion to continue as an amendment to the original motion and restated it as follows:

COUNCILMAN ORTEGA MOVED TO AMEND THE ORIGINAL MOTION TO EXTEND THE DSP CONTRACT FOR SIX MONTHS THROUGH THE 03-04 FISCAL YEAR. MAYOR MANROSS WITHDREW HER SECOND SO THE MOTION DIED FOR LACK OF A SECOND.

In response to further discussion, Mr. Gawf explained that the ordinance would include provisions on how the transition would take place. He assured Council that staff would present the ordinance to Council no later than November 17th and that the DSP's contract is funded through December 31st.

After further discussion, THE ORIGINAL MOTION CARRIED 4/3 (M.M., C.L., D.O.).

3. Consider adopting proposed Charter amendments and ballot language to create a six (6) district form of government with the Mayor being elected at large.

Requests:

1. Adopt Ordinance No. 3528, proposing to the qualified electors of the city amendments to the Scottsdale Charter to create a six (6) district form of government with the Mayor being elected at large. The ordinance also specifies language for the March 9, 2004 ballot.
2. Consider possible additional charter amendments related to a district form of government, and provide direction to staff.

Staff Contact(s): Donna Bronski, Deputy City Attorney, Dbronski@ScottsdaleAZ.gov, 480-312-2624; Brad Woodford, 480-312-2478, City Attorney, Bwoodford@ScottsdaleAZ.gov

Attorney Woodford introduced this item for discussion. He detailed the proposed Charter amendment that staff completed as directed by Council. He read into record the minor change to Article 9 Section 5 adding the words, "in that district" as follows:

B. ANY CANDIDATE FOR COUNCILMAN WHO SHALL RECEIVE AT THE GENERAL ELECTION, THE NUMBER OF VOTES CONSTITUTING A MAJORITY OF ALL OF THE BALLOTS CAST IN THAT DISTRICT, SHALL BE DECLARED TO BE ELECTED TO THE OFFICE FOR THAT DISTRICT IN WHICH HE IS A CANDIDATE, AND NO FURTHER ELECTIONS SHALL BE HELD.

Councilman Littlefield questioned why language specifying when and where the first election would be held was omitted from the proposed amendment. Attorney Woodford explained that he felt this was a procedural issue, which aren't usually addressed in charters. Secondly, he explained that there are many variables which would impact the issue such as the number of districts, district boundaries, etc. He stated his belief that there would be more information available to Council once the districts are formed.

Councilman Ortega suggested that the one-year requirement for candidates to live in the appropriate district as stated in Article 2 Section 4 should be extended to a two-year requirement. He explained that this change would help ensure that candidates are familiar with the issues in the district. Attorney Woodford explained that staff did not follow the Mesa model of a two-year requirement, since the city's current charter requires a one-year residency. He also noted that by the time the district lines are drawn, there might not be two years until the first election.

Councilman O'Hearn stated his preference that there be one charter related item on the March ballot. Attorney Woodford confirmed that his staff was clear on this issue, although there are some additional housekeeping issues unrelated to districting that must be considered and are related to the next item on the agenda. He noted that there is no proposal to place more than one charter issue on the ballot.

COUNCILMAN LITTLEFIELD MOVED TO ADOPT ORDINANCE NO. 3528 INCLUDING THE CHANGES IN ARTICLE 9 SECTION 5 AS STATED, PROPOSING TO THE QUALIFIED ELECTORS OF THE CITY AMENDMENTS TO THE SCOTTSDALE CHARTER TO CREATE A SIX (6) DISTRICT FORM OF GOVERNMENT WITH THE MAYOR BEING ELECTED AT LARGE. THE ORDINANCE ALSO SPECIFIES LANGUAGE FOR THE MARCH 9, 2004 BALLOT. COUNCILWOMAN LUKAS SECONDED THE MOTION (WHICH CARRIED 7/0).

COUNCILMAN ORTEGA MOVED TO AMEND THE MOTION REVISING ARTICLE 2 SECTION 4 REQUIRING A TWO-YEAR RESIDENCY IN A DISTRICT BEFORE A CANDIDATE WOULD BE ELIGIBLE TO RUN FOR COUNCIL OR MAYOR. THE MOTION DIED FOR LACK OF A SECOND.

After further discussion, THE ORIGINAL MOTION CARRIED 7/0.

4. Consider establishing a Charter Review Advisory Commission.

Request: Determine whether to establish a new Charter Review Advisory Commission. Should the Council choose to establish this commission, direction is sought on possible changes to the framework for the commission, including purpose, membership, schedule, and application process.

Related Policies, References: Scottsdale City Charter, Article 5, Section 1, Appointive Boards and Commissions, authorizes the City Council to create, change, and abolish city boards and commissions. Ordinance No. 2645, establishes the Charter Review Advisory Commission.

Staff Contact(s): Natalie Lewis, 480-312-7806, nlewis@scottsdaleaz.gov; Carolyn Jagger, City Clerk, 480-312-2411, cjagger@scottsdaleaz.gov

City Manager Jan Dolan explained that this item has been brought forward for consideration at the request of Councilman Ortega. She briefly outlined the options that are available to Council.

Councilman Ortega stated that Council has time to appoint a Charter Advisory Committee rather than asking the City Attorney to suggest changes. He noted that, typically, there are fourteen members of the committee. He expressed his opinion that there are some charter questions that could be considered by the committee which would be helpful.

In response to questions from Councilman Ortega, Attorney Woodford confirmed that there are items that could be clarified in the charter.

Mayor Manross opened public testimony.

George Knowlton, 8701 E. Valley View Road, requested the following if Council reinstates the committee: 1) all new applicants be considered, 2) that no one appointed to the committee would

benefit from any decisions the committee would make, 3) members be chosen from all areas of the city, and 4) that terms be set for two years.

Mayor Manross closed public testimony.

COUNCILMAN ORTEGA MOVED TO ADOPT ORDINANCE 2645 ESTABLISHING A CHARTER ADVISORY COMMISSION. THE MOTION DIED FOR LACK OF A SECOND.

Mayor Manross explained her belief that the timing is wrong to establish a charter review during an election cycle. Councilman O'Hearn agreed.

Mayor Manross noted that no further action was necessary on this item.

Public Comment - None

City Manager's Report - None

Mayor and Council Items

Councilman Ortega requested that an item be agendaized to allow Council to discuss possible charter amendments.

Adjournment

With no further business to discuss, Mayor Manross adjourned the meeting at 8:34 P.M.

SUBMITTED BY:

Ann Eyerly, Council Recorder

REVIEWED BY:

Carolyn Jagger, City Clerk

C E R T I F I C A T E

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Special Meeting of the City Council of Scottsdale, Arizona held on the 13th day of October 2003.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this 20th day of October 2003.

CAROLYN JAGGER
City Clerk